

II. Amendments To Independent Claims with Remarks

Applicant respectfully responds to the Office Action mailed May 15, 2008. For the reasons stated below, it is believed that all of the claims as now set forth in the included Listing of Claims are in a condition for allowance.

Attached hereto as Exhibit A is the Declaration of William Jones, Ph.D.

Applicant hereby withdraws without prejudice all previously submitted Proposed Amendments and Requests for Reconsideration After Final (none of which was entered by the Examiner) in view of the Reopening of Prosecution and the May 15, 2008 Office Action.

For ease of reference and discussion, the proposed amendments to independent Claims 1 and 16 in which new text is underscored and deleted text is ~~stuck through~~ are set forth here as well as in the included Listing of Claims. These amendments as shown relate to the listing of claims in the “Amendment and Response to 09/29/2005 Office Action” submitted on or about March 29, 2006, as the amendments in that document are believed by Applicant to be the last amendments entered in this matter.

Claim 1: (currently amended) An electric deterrent device for attachment to a surface comprising:

- a) an elongate base constructed of an extruded, flexible, non-conductive plastic material, said base having a cross-sectional configuration that includes a first side that will at least in part lie against the surface, and a second side, opposite said first side, said second side having at least two spaced apart areas that are separated by a non-conductive area; which are of a non-conductive material;
- b) said base being attachable to either a flat or curved surface;
- c) at least a pair of electricity conducting elements attached to said spaced apart non-conductive areas of said base, each said element comprising three or more strands interwoven to form a braided element rather than a mesh comprised of warp and weft strands in

perpendicular arrangement and rigidly attached to one another at the warp/weft intersections, wherein when said base is bent in convex or concave flex the compression or extension stress placed on said braided elements is at least partially absorbed by individual strands expanding apart from, or contracting towards, ~~other strands; one another;~~ and

d) said braided elements being attachable respectively to the positive and negative terminals of a power source; and

e) said braided elements are attached to said spaced apart areas on said base by sewing in which said braided elements are securely attached to said base, but allow some of said individual strands within each said braided element to move as the base is flexed, and that the resultant combination of said extruded flexible base and said attached braided elements can be bent into a curvature radius of less than one inch without permanent deformation of either said base or said braided elements.

Claim 16 (currently amended): In an electrical animal, pest or bird deterrent device comprising a base that is attachable to the surface from which the animal, pest or bird is to be deterred, and at least a pair of electrically conductive elements attached to the base and attachable to a power source, the improvement comprising said conductive elements comprising at least three-plurality of individual strands woven together in a braid-like fashion rather than a mesh comprised of warp and weft strands in perpendicular arrangement rigidly attached at their warp/weft intersections, wherein when said base is bent in any direction, the stress placed on said conductive elements is at least partially absorbed by the width of said braid-like elements expanding or contracting as said individual strands moving relative to one another, wherein said elements are attached to spaced apart pedestal areas on said base by sewing such that the deterrent device can be bent into a curvature radius of less than one inch without permanent deformation of either said base or said braided elements.

It is respectfully submitted that these two independent claims (and *ipso facto* each of the other claims depending from them) are clearly allowable over Bailey (and the other art of record) for the reasons discussed below.

The disclosure by Bailey WO1984004022A1 ("Bailey") relates generally to an electric device for deterring birds that might land on "the deck, roof or **other flat surface** and